FALSE IMPRISONMENT—ARREST WITHOUT WARRANT.—In an action for false imprisonment for an arrest, by an officer without a warrant, for a violation of the Sunday Law (P. S. 5955-5957), the defendant attempted to justify on the ground that his purpose in making the arrest was to prevent some further work not permitted by the Sunday Law. *Held,* the officer cannot justify the arrest on that ground. *Mazzolini* v. *Gifford* (Vt. 1916), 98 Atl. 904.

At common law an arrest could not be made by an officer without a warrant, for a misdemeanor, unless the offense was being committed in his presence. *Bowditch* v. *Balchin,* 5 Exch. 378; *Rex* v. *Bright,* 4 C. & P. 387, 19 E. C. L. 434; *Commonwealth* v. *Carey,* 12 Cush. 246; *Quinn* v. *Husel,* 40 Mich. 576; *Phillips* v. *Trull,* 11 Johns. (N. Y.) 486. Nor can he arrest without a warrant for a misdemeanor though committed in his presence which does not amount to a breach of the peace. *Butolph* v. *Blust,* 5 Lans. (N. Y.) 84; *Commonwealth* v. *Wright,* 158 Mass. 149. However, the rule has been changed in many jurisdictions by statute. In *Mayo* v. *Wilson,* 1 N. H. 53, a statute authorizing selectmen to arrest, without a warrant, persons suspected of travelling unnecessarily on the Lord's Day, was held to be constitutional. An arrest without a warrant, for an alleged breach of the Sunday Law was declared to be illegal in *Commonwealth* v. *Collins* (Pa. Quart. Sess.), 12 Rep. 284. But the decision in the principal case goes to the extent of saying that, though the purpose in the arrest is to prevent further work, and thus prevent the continuing of an act which is criminal according to the statute, nevertheless an officer would not be justified in arresting the offender without a warrant. In *State* v. *McNally,* 87 Mo. 644, the court used the following language: "A peace officer has the right to arrest without a warrant for a misdemeanor where the arrest is made *flagrante delicto,* and he is possessed of the same powers in making such arrest, and is authorized to employ the same force, and to resort where necessary, to the same extreme measures in overcoming resistance as in the case of a felony." This statement would seem to be too broad, in view of the above cases, unless the officer had been given some such authority by statute.

INJUNCTION—AGAINST CONSTRUCTION OF PUBLIC WORK BEFORE RIGHT OF EMINENT DOMAIN IS EXERCISED.—The defendant city commenced the construction of a sewer across the plaintiff's land before it had obtained a right of way. The plaintiff seeks an injunction restraining the defendant from collecting the improvement assessment on his property and to require the removal of the sewer from his premises. *Held,* that both forms of relief should be granted, unless the defendant, within a reasonable time, should acquire a right of way. *Fraser* v. *Portland* (Ore. 1916), 158 Pac. 514.

It is well settled that a court of equity will enjoin the taking of private property until the right to make an entry is obtained in accordance with the condemnation statutes. *Mobile Ry. Co.* v. *Ala. Midland Ry. Co.,* 123 Ala. 145, 26 So. 324; *Hardensburg* v. *Cravens,* 148 Ind. 1, 47 N. E. 153; *Hughes* v. *Milligan,* 42 Kan. 396, 22 Pac. 313. This is for the reason that

the remedy at law is inadequate; efficient justice demands that the constitutional rights of landowners be preserved. It is no doubt just to hold that if a corporation has the right to secure a right of way in a legal and peaceful manner, it should be obliged to pursue that method rather than the indirect and disorderly method of committing a tort and forcing the land owner to bring an action at law for damages. There are a few cases, however, which hold that relief will be denied on the ground that the legal relief is adequate. *Smith* v. *Weldon,* 73 Ind. 454; *Anderson* v. *St. Louis,* 47 Mo. 479; *McLoughlin* v. *Sandusky,* 17 Neb. 110. Also it is quite generally held that in cases where there is a mere technical irregularity in the obtaining of the right of way, an injunction will be refused. *Keigwin* v. *Drainage Coms.,* 115 Ill. 347; *Appeal of Patterson,* 129 Pa. St. 109, 17 Atl. 563. But the principal case is well supported both on principle and authority. The decree in the principal case is put in the proper and sensible form, *i. e.,* injunction to be effective only until the right of way is obtained. An order perpetually restraining the city from opening the sewer would be erroneous. *Chicago* v. *Wright,* 69 Ill. 318; *Champion* v. *Sessions,* 2 Nev. 271 (reprint 781).

INJUNCTION—AGAINST LIBEL.—Plaintiff was the exclusive distributing agent of a certain proprietary medicine in six southern states. He brought a bill for an injunction to restrain the defendant from continuing to publish in his newspaper malicious and libelous matter reflecting on the plaintiff and injuring his business. *Held,* that this injunction should be refused. *Willis* v. *O'Connell* (D. C. 1916), 231 Fed. 1004.

Most of the authorities agree that equity will not ordinarily restrain publication of a libel even if the property rights of the plaintiff are injured. *Flint* v. *Hutchinson Smoke Burner Co.,* 110 Mo. 492, 19 S. W. 804, 16 L. R. A. 243, 33 Am. St. Rep. 476; *American Malting Co.* v. *Keitel,* 209 Fed. 351, 126 C. C. A. 277; POMEROY, EQUITY JURISPRUDENCE (1906), Vol. 6, § 629; 2 HIGH, INJUNCTIONS (4th Ed.), 968. The reason commonly assigned for this view is that the granting of an injunction would interfere with the constitutional guaranties of freedom of speech and the press and the policy of the law as to trial by jury in cases of libel and slander. However, there are a number of Federal cases which hold that if the defendant is intimidating the plaintiff or his customers by the use of libelous matter, an injunction will be granted. *Casey* v. *Cincinnati Typographical Union* (C. C.), 45 Fed. 135, 12 L. R. A. 193; *Emach* v. *Kane,* 34 Fed. 45; *Atlas Underwear Co.* v. *Cooper Underwear Co.,* 210 Fed. 347. Of such cases the court in *American Malting Co.* v. *Keitel,* supra, says: "It is true that where proper grounds exist for assuming jurisdiction, equity does not refuse an injunction because there is incidentally involved the restraining of a libel." This dictum, in effect, admits that equity does not violate the constitutional guaranties in granting an injunction against a libel. It would seem then that, upon principle, equity should restrain the publication of a libel, when the remedy at law is inadequate, as it is where the plaintiff's business or reputation is